

REMARKS

The Examiner has rejected Claims 1-17, 22-38 and 43-59 under 35 U.S.C. 102(e) as being anticipated by Barton et al. (U.S. Patent No. 6,944,775). The Examiner has further rejected Claims 18-21, 39-42 and 60-63 under 35 U.S.C. 103(a) as being unpatentable over Barton in view of Ji et al. (U.S. Patent No. 6,728,886). Applicant respectfully disagrees with such rejections, especially in view of the amendments made hereinabove with respect to each of the independent claims.

Specifically, applicant has amended each of the independent claims to at least substantially include the subject matter of Claims 2 and 10 et al. With respect to the subject matter of former Claim 2 et al. (now incorporated into each of the independent claims), the Examiner has relied on the following excerpt from Barton to make a prior art showing of applicant's claimed technique "wherein the information identifying the computer malware comprises a name of the computer malware."

"In the context of the present description, an event may be the identification of unwanted content (i.e. pornography, banned phrases, etc.), viruses, malicious code, etc." (Col. 4, lines 2-5)

Applicant respectfully asserts that Barton only suggests generally identifying an event (e.g. unwanted content, viruses, malicious code, etc). In other words, Barton merely identifies whether such events exist or not. Clearly, such teaching does not rise to the level of specificity of applicant's specific claim language, namely generating "information identifying the computer malware [that] comprises a name of the computer malware" (emphasis added), as claimed. To further clarify such claim language, applicant has amended each of the independent claims to further include the following language:

"the name including at least one human-readable word by which the computer malware is distinguished from other computer malware."

With respect to the subject matter of former Claim 10 et al. (now incorporated into each of the independent claims), the Examiner has relied on the following excerpt from Barton to make a prior art showing of applicant's claimed technique "wherein the information identifying the computer malware comprises a plurality of names of the computer malware, each name generated by a different anti-virus scanner."

"The translated requests are adapted for prompting the scanning engines 308 to scan the data and respond with events. In the context of the present description, an event may be the identification of unwanted content..."
(Col. 3 lines 67-Col. 4, line 4)

Applicant respectfully asserts that the above excerpt from Barton only teaches scanning engines that respond to scanned data with events, where such events may include the identification of unwanted content, etc. Applicant notes, however, that Barton only generally teaches that the unwanted content is identified, but not that a name of computer malware is identified, in the manner claimed by applicant. Furthermore, when read in context, applicant teaches and claims a name that includes "at least one human-readable word by which the computer malware is distinguished from other computer malware." Clearly, a mere identification of the presence of unwanted content, etc., as disclosed in Barton, does not meet such specific claim language.

Still yet, applicant has further amended each of the independent claims to incorporate the following, which further clarifies the claims:

"wherein a plurality of different names associated with the same computer malware are displayed."

Applicant notes that Barton even *teaches away* from applicant's claim language, as amended. In particular, Table 2 in Barton shows events that are correlated such that a single event (e.g. Event0) results. Barton even explicitly teaches that "an event look up table (See Table 2) [is included] for correlating events received" (see Col. 4, lines 28-30-

emphasis added). Clearly, correlating events such that a single event results does not meet, and even *teaches away*, from applicant's specific claim language, namely "a plurality of names of the computer malware, each name generated by a different anti-virus scanner," where "a plurality of different names associated with the same computer malware are displayed" (emphasis added), as claimed.

Only applicant teaches and claims such a combination of features for the specific purpose of displaying a plurality of different names associated with the same computer malware, so that a user is capable of identifying the various different names that different anti-virus scanners give the same computer malware.

Applicant has further amended a portion of the independent claims to at least substantially include the subject matter of Claim 19. With respect to the subject matter of former Claim 19, the Examiner has relied on Col. 4, lines 11-13 and Col. 9, lines 31-42 in Ji to make a prior art showing of applicant's claimed technique "wherein the step of transmitting the compiled information identifying the computer malware comprises the step of: transmitting the compiled information identifying the computer malware from the Web site." Applicant respectfully asserts that such excerpts only disclose "a server on the Internet to allow [the host computer] to implement local virus scanning." Clearly, simply utilizing the Internet to allow virus scanning of data does not meet applicant's presently claimed technique "wherein the compiled information identifying the computer malware is transmitted from a Web site" (emphasis added).

With respect to the 102 rejection, the Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

With respect to the 103 rejection, and to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that the prior art references, when taken alone and in combination, fail to teach or suggest all of the claim limitations, as noted above. Thus, a notice of allowance or a proper prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Applicant further notes that the prior art is also deficient with respect to the dependent claims. Just by way of example, with respect to Claims 8 and 9 et al., the Examiner has relied on Col. 5, lines 5-9 in Barton to make a prior art showing of applicant's claimed techniques "wherein the sample of the computer malware comprises a copy of a file that has been identified as infected with a malware" (Claim 8 et al.) and "wherein the sample of the computer malware comprises an isolated copy of a malware" (Claim 9 et al.). Applicant respectfully asserts that such excerpt only generally discloses virus scanning, but not specifically receiving any sort of "copy of a file that has [already] been identified as infected with a malware" or "an isolated copy of a malware," in the context claimed by applicant (emphasis added).

Again, since the prior art references, when taken alone and in combination, fail to teach or suggest all of the claim limitations, as noted above, a notice of allowance or a proper prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, the applicant respectfully submits that claims 1-17, 22-38, and 43-59 are not anticipated by Barton, and that claims 18-21, 39-42, and 60-63 are not obvious over the combination of Barton and Ji.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claim 64 below, which is added for full consideration:

“wherein the received sample of computer malware has already been identified as being infected before being scanned by the plurality of anti-virus scanners to generate the names of the computer malware” (see Claim 64).

Again, a notice of allowance or a proper prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.


Additional Fees:

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with this application to Deposit Account No. 19-5127 (19903.0013).

Conclusion

In view of the foregoing, all of the Examiner's rejections to the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all the claims remaining in the application. Should the Examiner feel further communication would facilitate prosecution, he is urged to call the undersigned at the phone number provided below.

Respectfully Submitted,



Michael A. Schwartz
Reg. No. 40,161

Dated: November 2, 2005

Swidler Berlin, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7500